

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

In re:

LLS AMERICA, LLC,  
  
Debtor.

NO: CV-12-484-RMP

Bankruptcy No: 09-06194-PCW11

Adversary No: 11-80296

BRUCE P. KRIEGMAN, solely in his  
capacity as court-appointed Chapter 11  
Trustee for LLS America LLC,

Plaintiff,

vs.

267406 BC LTD, et al.,

Defendants.

ORDER GRANTING MOTION FOR  
DEFAULT AND JUDGMENT

Before the Court is bankruptcy trustee Bruce P. Kriegman's Motion for  
Entry of Default and Judgment as to Defendants Gino and Shelly Panucci, ECF  
No. 8. The Court has reviewed the motion, its attachments, the Court's file, and  
the Bankruptcy Court's file for the adversary action 11-80296-PCW11.

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ORDER GRANTING MOTION FOR DEFAULT AND JUDGMENT ~ 1

1 This case arose as an adversary action as part of the bankruptcy of LLS  
2 America, LLC. This Court withdrew the reference to this action, set a trial date,  
3 and referred the matter back to the Bankruptcy Court for that court to address  
4 pretrial matters.<sup>1</sup> The Bankruptcy Court entered orders granting the Bankruptcy  
5 Trustee's motions for default and for default judgment. The trustee now moves  
6 this Court for entry of default and default judgment.

7 "When a party against whom a judgment for affirmative relief is sought has  
8 failed to plead or otherwise defend, and that failure is shown by affidavit or  
9 otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 54(a). "If the  
10 plaintiff's claim is for a sum certain or a sum that can be made certain by  
11 computation, the clerk—on the plaintiff's request, with an affidavit showing the

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13 <sup>1</sup>The above-captioned action, CV-12-484-RMP, and CV-11-363-RMP both  
14 arise from the bankruptcy adversary action 11-80296-PCW11. The Court entered  
15 an order withdrawing the reference to 11-80296-PCW11 in CV-11-363-RMP. The  
16 Court clarified in CV-11-363-RMP that withdrawal of the reference extended to  
17 the entire adversary action and not just the parties seeking withdrawal.

18 Accordingly, this action has been withdrawn, trial has been set, and the matter has  
19 been referred back to the Bankruptcy Court for disposition of pretrial matters as  
20 expressed in the Court's orders in CV-11-363-RMP. An order of consolidation is  
forthcoming.

1 amount due—must enter judgment for that amount and costs against a defendant  
2 who has been defaulted for not appearing.” Fed. R. Civ. P. 54(b).

3 Pursuant to the Court’s order on motion for withdrawal of reference, this  
4 Court will treat the Bankruptcy Court’s orders entering default and default  
5 judgment as proposed findings of fact and conclusions of law. The instant motion  
6 was filed on September 5, 2012. Defendants Gino and Shelly Panucci have filed  
7 no objection. After a review of the record before this Court and the bankruptcy  
8 court, the Court concludes that default is appropriate and default judgment shall be  
9 entered. Accordingly, **IT IS HEREBY ORDERED:**

10 1. The trustee’s Motion for Entry of Default and Judgment, **ECF No. 8**, is

11 **GRANTED.**

12 2. Defendants Gino and Shelly Panucci are in default, and default of said  
13 Defendants is hereby entered.

14 3. The Court will enter default judgment by separate order.

15 **IT IS SO ORDERED.**

16 The District Court Executive is hereby directed to enter this Order and to  
17 provide copies to counsel and to Judge Patricia C. Williams.

18 **DATED** this 1st day of November 2012.

19  
20 s/ Rosanna Malouf Peterson

ROSANNA MALOUF PETERSON  
Chief United States District Court Judge